

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:06-00106

JONATHAN CAVENDER

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On June 2, 2009, the United States of America appeared by Monica L. Dillon, Assistant United States Attorney, and the defendant, Jonathan Cavender, appeared in person and by his counsel, Mary Lou Newberger, Federal Public Defender, for a hearing on the petition on supervised release and amendment thereto submitted by United States Probation Officer Patrick M. Fidler, the defendant having commenced a thirty-month term of supervised release in this action on August 29, 2008, as more fully set forth in the Supervised Release Revocation and Judgment Order entered by the court on April 10, 2008.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that on or about March 19, 2009, the defendant committed the federal and state crime of distribution of cocaine base when he sold cocaine base to a confidential informant for \$100 as evidenced by his acknowledgment on the record of the hearing that the government possesses sufficient evidence to prove the offense by a preponderance of the evidence; (2) that the defendant used controlled substances as evidenced by positive urine specimens submitted by him on September 18 and October 28, 2008, for cocaine and marijuana; on December 8 and 19, 2008, for marijuana; on January 8, 2009, for cocaine; on February 16, 2009 for cocaine and marijuana; on March 16, 2009, for marijuana, cocaine and hydrocodone; and on March 16, 2009, for marijuana; (3) that the defendant failed to appear for urinalysis testing as directed by the probation officer on February 13, 2009; (4) that the defendant failed to notify the probation officer within seventy-two hours of his contact with law enforcement on September 24, 2008, and February 9 and March 19, 2009; all as

set forth in the petition on supervised release and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

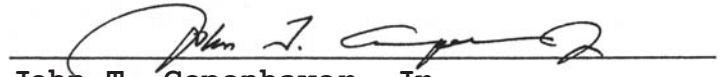
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of EIGHTEEN (18) MONTHS.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the defendant not be designated to FCI Elkins, but otherwise be designated to an institution as close to Charleston, West Virginia, as feasible.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: June 15, 2009


John T. Copenhaver, Jr.
United States District Judge